

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between

Dr. Hassan A. Diab, Dr.  
Najah A. Sharkian  
Mohammed Diab

Claimants/  
Counterrespondents

Award

NASD # 88-01002

vs.

Kidder Peabody & Co.  
David Skuce

Respondents/  
Counterclaimants

SUMMARY OF ISSUES

This case was filed on March 29, 1988. Claimants/Counterrespondents alleged that Respondents/Counterclaimants made unauthorized purchases in Hewlett Packard, Apple Computer and Genetech in Claimants' name, and improperly sold the securities. Claimants/Counterrespondents also alleged that Respondents/Counterclaimants violated a margin agreement. Respondents/Counterclaimants alleged that Respondents did not execute unauthorized trades, that Claimants satisfied the purchases, and failed to mitigate these damages. Respondents/Counterclaimants asserted a counterclaim alleging that after liquidation of Claimants' account to meet margin calls a deficit remained unpaid. Claimants/Counterrespondents replied to the Counterclaim, denying the allegations, asserting that the transactions were unauthorized, and that there was no satisfaction or failure to mitigate damages.

DAMAGES AND RELIEF REQUESTED

Claimants/Counterrespondents requested an award of damages in the amount of Rescission of 3,500 Share Buys (HWP, ANPL, GEL) and the difference between portfolio liquidation prices and closing prices as stated in Fri. 10 Nov 89 WST (attached to Exhibit 1). Respondents/Counterclaimants requested that the claim be dismissed and that costs be assessed against claimants.

On their Counterclaim, Respondents/Counterclaimants requested that they be awarded \$3,284.00 plus pre-award interest at the rate of 10%. Claimants/Counterrespondents requested that the Counterclaim be denied.

DAMAGES AND RELIEF AWARDED

On November 10, 1989, in San Francisco, California, the undersigned arbitrators heard the controversy in 3 sessions; between the parties as set forth in submissions to arbitration signed by Claimant Hasan A. Diab May 27, 1988, by Claimant Najiah Sharkish August 13, 1988, and by Claimant Mohammed Diab August 14, 1988, and by Respondent(s) Kidder, Peabody & Co. on January 14, 1989 and by Respondent Daniel Skuse on February 17, 1989.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

All claims against KP & SKUCP are dismissed.

Respondent's counterclaim is dismissed.

The parties shall each bear their respective costs including attorneys' fees.

Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain/  
~~retain~~ the \$ 1,000 filing fee previously deposited by the Claimant, and  
the claimant <sup>is</sup> assessed in addition  
\$2000 ~~from~~ forum fee to be paid directly to the  
National Association of Securities Dealers, Inc.  
Said liability is joint and several.

OTHER ISSUES

At the hearing, Claimants amended their Statement of Claim to delete all claims except the claims that Respondents made unauthorized purchases w/ Hewlett Packard, Apple Computer, and Genentech, <sup>made improper sales,</sup> and that Respondents violated the margin agreement.


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ARBIT

DATE SERVED: December 1, 1989

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ARBITRATORS DISSENTING

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